

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
February 14, 2006**

Place: Room 119
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Bigelow, Forman, Kenny, Spain

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Beler

At 8:00 P.M., Chairman Damanti read the public hearing agenda item:

PUBLIC HEARING

Public Hearing regarding the draft Town Plan of Conservation & Development prepared by the Darien Planning & Zoning Commission. This draft plan has been filed in the office of the Town Clerk.

Mr. Ginsberg said that there was a previous Public Hearing held on January 24, 2006, and copies of various letters from the general public have been distributed to Planning and Zoning Commission members. Mr. Damanti noted that sometimes comments differ amongst parties, and the Planning and Zoning Commission must weigh each comment and try to balance the viewpoints received.

The first speaker was Susan Cameron of 42 Hoyt Street representing herself and the Environmental Protection Commission. She submitted a letter dated February 1, 2005 (sic) that was two pages long and addressed issues in Chapter 3 and Chapter 8. She highlighted various items including proposed changes to Pages 3-3, 3-4, 3-8, A3-7 within Chapter 3. In Chapter 8, she suggested that Open Space should be separated from the Parks and Recreation subject matter, and maybe Open Space and Conservation should be placed together. She noted specifically proposed changes to Pages A8-9 and A8-12, and also noted that there was a needed correction in the Nature Conservancy parcels. They are not actually held by the Nature Conservancy, but rather by the Darien Land Trust. She also briefly discussed proposed setbacks from Stony Brook and Tokeneke Brook.

Mr. Kenny noted that SWRPA is inventorying open space in communities, but different definitions within communities are used, and the challenge regarding open space is to be broad enough to include different types of open space and how each is used in various communities.

Ms. Cameron said that the Town should adopt an aquifer protection ordinance and have the Environmental Protection Commission review requests for work within the aquifer zone.

Mr. Dan Dolcetti of 55 Noroton Avenue referred to Page A4-29 and Exhibit 8-6 within the Town Plan. He notes that the Town is underutilizing parking that exists downtown, and that it needs to be better publicized that there is parking after hours in both municipal lots and the train station parking lot.

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Cheryl Russell, Chairman of the Park and Recreation Committee of the RTM, said that the 1995 Town Plan lists school playfields as open space, and that should be done again in this Plan. She said that on Page A8-13, the Commission needs to be more specific regarding public/private partnerships, as private fundraising is done for some projects, but not for others. For example, the dredging of the harbor was a public/private partnership that did not involve the Parks and Recreation Commission. This paragraph regarding public/private partnerships is within the Parks Recreation and Open Space Chapter, and that may be deceiving to some. She said that on Page A8-8, it should be noted that some properties are dedicated by use, and some by formal resolution of the RTM, and some by deed. She said that on Page A8-5, relative to the Diller property, she disagrees with the last sentence that now states, "and this is not the optimum location for either active or passive recreation." She said that it may be a good use for the property to include walkways or other passive uses. She said that the phrase "or passive" should be deleted from that sentence. She asks whether the Parks and Recreation plan would be adopted and incorporated into the 2006 Town Plan. She noted that the prior plan was referenced but not formally adopted into the Planning and Zoning Commission Town Plan. She believed that the Commission should keep Open Space references within the Parks and Recreation Chapter.

Mr. Damanti then mentioned that although the Draft Town Plan is listed as the 2005 Town Plan, all references should be changed to the 2006 Town Plan, as this is not going to be adopted by the Commission in 2005, but rather sometime in 2006.

Ms. Terrie Wood, the President of the Darien Land Trust, then spoke and submitted a letter dated February 14, 2006. That letter was two pages with a two-page attached letter. She noted her proposed changes to Pages 3-3, 8-3, and A8-9. She said that the Darien Land Trust has eight easements and owns 65 properties in Town.

Mr. Bigelow explained that the opportunity to purchase undeveloped land comes up frequently, but the taxpayers refuse to pay the going rate to buy the land.

Ms. Dot Kelly then distributed a handout, which was one page long and undated. She said that on Page A8-7, the paragraph regarding the Procaccini property needs to be revised, and any open space coming out of that subdivision should be inclusive and invite public use. She noted that within the Town Plan, the Planning and Zoning Commission should refer to the Best Management Practices (BMPs), which are now referred to in various State documents.

Mr. Joe Warren then distributed two separate handouts. He believes that the Affordable Housing Statute should be changed, and the Commission should state that within the Town Plan. Any areas to be rezoned for multi-family housing should have natural boundaries like railroad tracks that will make them more acceptable for us as affordable housing.

Mr. Robert Young, the Chairman of the PZ&H Committee of the RTM, then said that the Town Plan of Conservation and Development in its draft form is scheduled for discussion by his committee next week. He was wondering whether the Public Hearing on this matter could be continued. Otherwise, any comments would have to go to the RTM when they discuss the final draft. Mr. Damanti responded by noting that various committees of the RTM have had this draft document since November, and the Commission wishes to move along towards adoption. He said

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that a formal referral to the RTM will be upcoming over the next month or two, and that Mr. Young's committee will again have the opportunity to comment at that time.

There being no one else in the audience who wished to speak on this matter, Mr. Bigelow made a motion to close the Public Hearing on the Draft Town Plan of Conservation & Development. That motion was seconded by Ms. Forman, and unanimously approved. At 9:30 p.m., the Commission took a five minute recess. At 9:35 p.m., Mr. Damanti then read the first General Meeting item:

GENERAL MEETING

Proposed Amendments to the Darien Zoning Regulations, Darien Library Inc., 35 Leroy Avenue. Proposing to amend the Darien Zoning Regulations to create a new zoning district—a Civic Use Zone--a floating zone; and to add a definition of "Zone, Floating" to Section 210 of the Zoning Regulations.

Proposed Amendment to Darien Zoning Map, Darien Library Inc., 1421 & 1445 Boston Post Road. Proposing to rezone the existing parcels from Designed Office & Research 1-acre minimum lot area (DOR-1) and Service Business (SB) to Residential-1/5 acre minimum lot area (R-1/5). The subject properties are on the north side of Boston Post Road, at the northeast corner formed by its intersection with Hecker Avenue, and is shown on Assessor's Map #39 as Lots #13 and #14 in the SB and DOR-1 Zones.

Mr. Damanti noted that the Commission has a revised draft proposal put forward by staff. He then discussed whether to keep this as an overlay zone and/or floating zone. He believed that it was best to keep it as an overlay zone. Mr. Spain suggested that it really should be treated as a floating overlay zone. The question arose whether the uses should be Special Permit uses or only require Site Plan approval.

Mr. Bigelow had a concern as to the long-term usage of this building, which potentially could be larger than typical buildings in town. Mr. Kenny believed that any uses should be Special Permit uses. It was noted that the Fire Departments and Post 53 should be included in the list, but uses such as the YMCA, the DCA, the Nature Center, United Way and Red Cross would not be considered municipal uses.

Mr. Ginsberg said that any change to the Zoning Map or the Zoning Regulations needs four affirmative votes by the Commission. Mr. Kenny believed that conceptually, the proposed Zoning Regulations are good, but they still need "fine tuning." Mr. Bigelow said that it is especially important to be clear regarding definitions. It was noted that the applicant has granted the Commission an extension until February 21, 2006 to make a decision on these matters.

After some discussion, Mr. Damanti instructed Mr. Ginsberg to schedule a Special Meeting of the Commission for either February 21st or February 28th, depending on the availability of Commission members. If five members cannot attend a meeting on the 21st, Mr. Ginsberg should ask the applicant for an additional week's extension to February 28th.

Mr. Damanti then read the next agenda item:

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Flood Damage Prevention Application #232, Land Filling & Regrading Application #154, Nicholas & Stacia Branca, 14 Shipway Road. Proposing to raze existing house and construct a new single-family residence and perform related site development activities within a regulated area. The subject property is located on the north side of Shipway Road, at the northwest corner formed by its intersection with Plymouth Road, and is shown on Assessor's Map #57 as Lot #34, R-1 Zone.

Mr. Spain made a motion to waive the reading of the draft resolution, as the Commission has had the draft the entire weekend to review that draft. Mr. Kenny seconded that motion, which was unanimously approved. The draft resolution was then briefly discussed.

Ms. Forman made a motion to adopt the resolution as written. Mr. Spain seconded that motions, which was approved by a vote of 4-0 with Mr. Bigelow abstaining as he was not at the Public Hearing on this matter. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 14, 2006**

Application Number: Flood Damage Prevention Application #232
Land Filling & Regrading Application #154

Subject Property: 14 Shipway Road
Assessor's Map #57 Lot #34

Name and Address of:
And Property Owner
Nicholas & Stacia Branca
14 Shipway Road
Darien, CT 06820

Name and Address of:
Applicant And Applicant's Representative:
Chad Nehring, AIA
Nehring & Associates, Architecture, LLC
75 Glen Road, Suite 304A
Newtown, CT 06482

Activity Being Applied For: Proposing to raze existing house and construct a new single-family residence and perform related site development activities within a regulated area.

Property Location: The subject property is located on the north side of Shipway Road, at the northwest corner formed by its intersection with Plymouth Road.

Zone: R-1

Date of Public Hearing: January 24, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: January 12 & 19, 2006

Newspaper: Darien News-Review

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Date of Action: February 14, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
February 23, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is to raze existing house and construct a new single-family residence and perform related site development activities within a regulated area.
2. The applicant proposes the installation of a new drainage system.
3. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #232 and Land Filling & Regrading Application #154 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. The proposed activities, including construction and drainage, are shown on the plans submitted to the Commission entitled:
- Plot Plan of property prepared for Nicholas & Stacia Branca, #14 Shipway Road, by Arcamone Land Surveyors, dated Aug. 4, 2005 and last revised 12/15/05.
 - New Residence Prepared for the: Nick & Stacy Branca 14 Shipway Road, by Nehring + Associates Architecture, LLC, last dated 12.16.05, Sheets L1, A1-A6.
 - Drainage and Utility Plan, Nicholas and Stacia Branca 14 Shipway Road, by Artel Engineering Group, LLC, scale 1"=20', dated 12/14/05.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the new residence, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design complies with the applicable requirements, especially the Flood Damage Prevention Regulations.
- D. A professional engineer shall certify that the proposed grading has been achieved per the plans and that existing drainage patterns and neighboring properties are not impacted. This certification shall be submitted by November 30, 2006, or before the issuance of a Certificate of Zoning Compliance/Certificate of Occupancy, which comes first. Upon completion of the work, the applicant shall provide written verification and photographs documenting completion of the project and compliance with the approved plans.
- E. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the nearby private streets. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- F. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- I. This permit shall be subject to the provisions of Sections 829f and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 13, 2006). This may be extended as per Sections 829f and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Amendment of Coastal Site Plan Review #198-B, Flood Damage Prevention Application #216-B and Land Filling & Regrading Application #133-B, Bluff Island, LLC, 23 Butler's Island Road.

Request to construct a series of retaining walls in the back yard of the subject property within regulated areas.

Mr. Keating updated the Commission on the revised plans that were submitted by Penny Glassmeyer and William W. Seymour & Associates. He then briefly outlined the cover letter dated February 8, 2006 prepared by Jeff McDougal of William W. Seymour & Associates. The letter and the map show the various retaining walls in the back yard of the 23 Butler's Island Road property. Mr. Keating and Mr. McDougal explained that they had Mr. Perrone and Mr. Mende, two of the three adjacent property owners, to "sign off" for these retaining walls and steps and stairs into the back yard. Mr. McDougal also noted that the generator is being relocated, and the revised location of the air conditioning units needs ZBA approval.

Mr. Kenny made a motion to approve these amendments as submitted. That motion was seconded by Mr. Bigelow and unanimously approved by a vote of 5-0.

Request for Extension of Time, Subdivision Application #433-A, Coastal Site Plan Review #213, Dorrance, 20 Juniper Road.

Request for two month extension of time to file all maps and documents.

The Commission members briefly reviewed the letter submitted by Attorney Michael Nedder. Mr. Bigelow made a motion to approve the two-month extension. That motion was seconded by Mr. Spain and unanimously approved.

Approval of Minutes

December 6, 2005 Public Hearing

Ms. Forman made a motion to approve the December 6, 2005 meeting minutes with minor typographical corrections submitted by Mr. Spain. That motion was seconded by Mr. Spain and unanimously approved.

There being no other business, the meeting was adjourned at 10:50 P.M.

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Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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